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and cosmetics, etc., the tax impinges principally upon separate transactions in such manner that there is seldom enough at stake for any one individual to induce litigation. The interpretation is therefore largely departmental. There is a flood of decisions by the Treasury Department, and over by far the greater part of the Act they are the sole authoritative guide to its interpretation. In the treasury decisions themselves there is little or no coherence. Not only has the department under this administration reversed many of the decisions of the department given under the similar Act of 1898, but its own decisions on this one particular act are in some cases contradictory and in others utterly irreconcilable in principle.

I give two illustrations: The ordinary assignment of stock is in form an assignment followed by a power of attorney in blank to transfer the stock represented on the books of the corporation. The Act imposes a tax of two cents on every hundred dollars of par value of stock transferred, and a tax of twenty-five cents on powers of attorney. The Act of 1898 contained similar provisions. Under that the Treasury Department ruled that the power of attorney embodied in the assignment was taxable at twenty-five cents, in addition to the tax on the transfer. After the passage of the Act of 1914 the Treasury Department reiterated this decision, but shortly reversed itself on the obviously proper ground that the right to transfer on the books follows from the assignment; that the appointment of an attorney is mere surplusage, adds nothing to the force of the assignment, and is therefore not in legal effect a power of attorney.

Schedule A imposes a tax in terms upon every transfer of stock or delivery of a certificate, but the accompanying penalty is limited to cases of sales. The Treasury Department accepts neither the construction that the tax is limited to cases of sales, nor the construction that it covers all transfers or deliveries, but takes the seemingly impossible ground that it is imposed in some cases where there is no sale—as for instance in cases of gift or transfer by a trustee to a beneficiary—and yet is not imposed in others—for example on transfer into the name of an administrator or executor, or from the name of a retiring trustee into the name of a substitute trustee.

I think that the above examples will serve to illustrate the fact that to a man who does not care to litigate, but merely wishes to have a guide by which he may be reasonably safe in the conduct of his daily business, the official treasury decisions are of more value than any text book can be. Of course the Treasury Department does not make the law, but as a practical matter compliance with its decisions is doubtless full protection, and the only safeguard against or substitute for litigation.

*John Guyton Boston.*

HANDBOOK OF THE LAW OF BAILMENTS AND CARRIERS. By ARMISTEAD M. DOBIE. [Hornbook Series] St. Paul: WEST PUBLISHING CO. 1914. pp. xiv, 852.

This book covers in a general manner the theory of Bailments and then goes more specifically into the application of that theory to the Common Carrier. The last half should accordingly prove to be of greater value for practical purposes. In the Appendix we find a brief resumé of the Interstate Commerce Act, with amendments, the Safety Appliance Act, and the present Federal Employer's Liability Act. The noticeable feature of the book is the manner in which the author brings out the distinctions between the nature and attributes of tort

actions and contract actions against the carrier, a point which is often passed over or confused in other similar treatises. The sections on the rights and liabilities of initial and connecting carriers, and the application of the Carmack Amendment to these questions, are also treated with great ability.

Some statements in the chapters on Bailments detract in a manner from the otherwise general excellence of the work. The writer remarks in several places that gratuitous bailments arise out of contract. It is true that the party benefited in those transactions possesses certain well established property rights, but it is submitted that such rights are inherent in the bailment relation or status, rather than constituting the attributes of contract. Promises to give a bailment for mutual benefit are of course legally enforceable, since they rest upon the necessary consideration. But it cannot be said that the party benefited surrenders any legal right where the agreement is one for a gratuitous bailment. Mutual agreements do not necessarily import a contract, as for example a promise to make a gift, which is everywhere held to be *nudum pactum*. It would appear preferable to abandon the anomalous theory of a contract without consideration, and explain the gratuitous bailment on the sound basis of a vested property right. The work is otherwise fully up to the standard of the Hornbooks, and should enjoy a popularity similar to other of the series.

*Eugene Untermeyer.*

#### Books Received:

HANDBOOK OF THE LAW OF BILLS AND NOTES. By CHARLES P. NORTON. [Hornbook Series]. Fourth Edition with appendix containing the Negotiable Instruments Law. St. Paul: WEST PUBLISHING Co. 1914. pp. x, 732.

REPORT OF THE THIRTY-SEVENTH ANNUAL MEETING OF THE AMERICAN BAR ASSOCIATION. Baltimore: THE LORD BALTIMORE PRESS. 1914. pp. 1170.

MANUEL DE DROIT INTERNATIONAL PRIVÉ. Par JULES VALÉRY. Paris: FONTENOING ET CIE. 1914. pp. viii, 1391.

THE COLLECTED PAPERS OF JOHN WESTLAKE ON PUBLIC INTERNATIONAL LAW. Edited by L. OPPENHEIM. Cambridge: THE UNIVERSITY PRESS. 1914. pp. xxix, 705.

THE PROGRESSIVE MOVEMENT. By BENJAMIN PARKE DE WITT. New York: THE MACMILLAN Co. 1915. pp. xii, 376.

THE LAW OF ELECTRICITY. By ARTHUR F. CURTIS. Albany: MATTHEW BENDER & Co. 1915. pp. lxxxiv, 1033.

LIMITATIONS ON THE TREATY MAKING POWER UNDER THE CONSTITUTION OF THE UNITED STATES. By HENRY ST. GEORGE TUCKER. Boston: LITTLE, BROWN & Co. 1915. pp. xxi, 444.

SOURCES OF ANCIENT AND PRIMITIVE LAW. Compiled by ALBERT KOCOUREK and JOHN H. WIGMORE. Boston: LITTLE, BROWN & Co. 1915. pp. xvii, 702.

DEVELOPMENT AND PRESENT STATUS OF CITY PLANNING IN NEW YORK CITY. By THE COMMITTEE ON THE CITY PLAN. New York: 1914. pp. 76.

RAILROAD RATE REGULATION. By JOSEPH HENRY BEALE and BRUCE WYMAN. Second Edition. New York: BAKER, VOORHIS & Co. 1915. pp. xvi, 1210.

HANDBOOK OF THE LAW OF BAILMENTS AND CARRIERS. By ARMISTEAD M. DOBIE. [Hornbook Series]. St. Paul: WEST PUBLISHING Co. 1914. pp. xiv, 852.